

## **M E M O R A N D U M**

**TO:** Health and Human Services Interim Committee (Attn: Mark Andrews)

**FROM:** J. Craig Jackson

**DATE:** June 4, 2004

**SUBJECT:** Response to Sunset Review Questions for the Nurse Practice Act, Title 58  
Chapter 31b

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Question 1. To what extent does the statute or agency operate in the public interest and are there areas in which the statute or agency needs to improve its ability to operate in the public interest?

Answer: This statute operates as a mechanism for qualified individuals to become licensed and practice nursing in the State of Utah. The statute defines licensure requirements, which establishes a minimum standard to help ensure the reliability in preparation of individuals providing required services. In protecting the public interest the Division investigates any reports of violations of the Nurse Practice Act or Title 58, Chapter 1, the Division of Occupational and Professional Licensing Act.

Question 2: To what extent do existing statutes interfere with or assist the legitimate functions of the statute or agency, and any other circumstances including budgetary, resource, and personnel matters that have a bearing on the capacity of the statute or agency to serve the public interest?

Answer: An applicant for licensure as a nurse must have completed an approved nursing education program, successfully pass a national examination, and if required, internship experience (this applies to the Psychiatric Mental Health Nurse Specialist or Nurse Practitioner), to demonstrate the ability to safely work with the public prior to receiving full licensure. An applicant for registration as a Health Care Assistant is not required to complete any education or examination. All licensees/registrants under the

Nurse Practice Act are required to have a criminal background check including both state and Federal checks. The existing requirements are a balance to ensure the public is adequately protected. The Division must maintain a licensing staff to approve the applications for licensure/registration.

Question 3: To what extent is the public encouraged to participate in the adoption of the rules established in connection with the statute or agency?

Answer: All rule-making efforts are widely published with notifications to interested associations and posting on the Division's internet site, as well as publication in the state bulletin. The public is thus invited to participate either by attending the rules hearing (if one is held) or by submitting written comments during the 30-day public comment period.

Question 4: To what extent are the statute's provisions or agency's programs and services duplicative of those offered by other statutes of state agencies?

Answer: No other agency or association duplicates this function for nurse licensees. However, the practice of a Health Care Assistant may be very similar to that of a Certified Nurse Assistant (CNA). CNAs are regulated by the Department of Health.

Question 5: To what extent are the objectives of the statute or agency accomplished and their public benefit?

Answer: Nurses and Health Care Assistants must meet all licensure/registration requirements, thus demonstrating minimal competence. This process protects the public from unlicensed, and unqualified practitioners.

Question 6: What would be the adverse effect, if any, on the public terminating the statute or agency?

Answer: Without the existing nurse regulation, there is a potential for unqualified individuals to perform nursing services. Given the critical and often life and death situations nurses face, the adverse affect on public safety is immense, however, the severity of this affect is impossible to estimate. All states and foreign countries regulate nursing practice. As to the adverse effect of terminating the regulation of Health Care Assistance, the Division believes there would be little affect on the public safety. Throughout the years since the creation of the Health Care Assistant Registration, state agencies and special interest groups have made multiple exemptions. At this time, the only individuals who must be registered are those who provide services in a client's

home, where the client is unable to direct his/her own care. However, employees of home health agencies are exempt from the registration.

Question 7: Are there any other matters relevant to the review of the statute or agency?

Answer: We are recommending that this statute be re-authorized for 10 Years, or that the sunset date be removed. The issue of the Health Care Assistant Registration is being studied by a broad-based taskforce that is required to report to the Business and Labor Interim Committee by November 2004. Therefore, any changes to that part of the Nurse Practice Act will be addressed at that time.